

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT MAITAMA  
BEFORE HIS LORDSHIP: HON. JUSTICE H. MU'AZU  
SUIT NO: FCT/HC/CV/5377/2024  
DELIVERED ON THE 05/11/2025**

**BETWEEN:**

- |   |   |  |
|---|---|--|
| <ul style="list-style-type: none"><li>1. MUTUAL TRUST MICROFINANCE BANK LIMITED</li><li>2. MR. JOSHUA OYEBISI</li></ul> | } | <b>JUDGMENT DEBTORS/<br/>APPLICANT</b> |
|---|---|--|

**AND**

- 1. HIS WORSHIP, HONOURABLE AHMED YUSUF UBANGARI.....RESPONDENT  
*(SITTING AT MAGISTRATE COURT NO. 2 DUTSE-ALHAJI, ABUJA)*
- 2. AMANGE SAMUEL TERSUE.....JUDGMENT CREDITOR/RESPONDENT

**JUDGMENT**

This originating motion on notice was filed after the leave of this Honourable court was sought and granted on the 27<sup>th</sup> day of November, 2024. The motion on notice dated the 6th day of December, 2024 was filed on the same date. The Respondents were duly served and they filed a judgment creditor/Respondents counter affidavit dated the 22nd day of January 2025 and filed on the same date. In further response to the Respondent's counter affidavit the Applicant filed a further and better affidavit in opposition to the 2nd Respondent's counter Affidavit dated the 5th day of May, 2025 and filed on the 6th day of May, 2025.

The originating motion on notice was bought pursuant to order 44 Rule 1(1), Rule 2, Rule 5(1) & (3), Rule 6(1) of the High Court of the Federal Capital Territory (Civil Procedure Rules 2018 (now Order 43 of 2025 Rules) and under the inherent jurisdiction of this Honourable court.

The originating motion on notice seeks for the following reliefs/orders:

1. *An Order of Certiorari to remove into this court for the purpose of quashing the proceedings before his worship, Honourable Ahmed Yusuf Ubangari, the chief District Judge Grade II, sitting at Magistrate Court No. 2, Dutse Alhaji, Abuja in suit No. MT/DUT/48/2024 - AMANGE SAMUEL TERSUE V. INSPECTOR GENERAL OF POLICE & 4 ORS.*
2. *AN ORDER QUASHING the proceedings before his worship Honourable Ahmed Yusuf Ubangari, the chief District Judge Grade II sitting at Magistrate Court No. 2 Dutse Alhaji, Abuja in suit No. MT/DUT/48/2024 - AMANGE SAMUEL TERSUE V. INSPECTOR GENERAL OF POLICE & 4 ORS.*
3. *AND FOR SUCH FURTHER AND/OR OTHER ORDERS as this Honourable court may deem fit to make in the circumstance.*

The originating motion on notice is accompanied with statement in support of the application, an affidavit of 5 paragraphs in support of the application deposed to by the 2<sup>nd</sup> applicant, MR. JOSHUA OYEBISI, a verifying affidavit also deposed to by the 2<sup>nd</sup> applicant, MR. JOSHUA OYEBISI as well as a written address adopted by the learned counsel for the Applicants, SIMON EROMOSELE ESQ as his oral argument in support of the application. In support of the said application are also Exhibits A - C, that is, a copy of the default judgment delivered by Honourable Justice E. Okpe of the FCT High Court (vacation) Abuja on the 8<sup>th</sup> August, 2023, a copy of the Garnishee Order Nisi, and a copy of the Ruling delivered by the 1<sup>st</sup> Respondent on 19<sup>th</sup> August, 2024 refusing the Applicants Preliminary objection respectively.

The bone of contention in the present application by the Applicants can be seen from the content of paragraph 3(c) of the affidavit in support of this application which is:

***"That the 1st Respondent erred and misdirected himself when he granted a Garnishee order Nisi ruling for a judgment debt of ₦60,000,000.00 (Sixty Million Naira) over and above the actual judgment debt of ₦10,000,000.00 (Ten million naira) contained in the judgment sought to be enforced".***

The aforementioned paragraph of the affidavit in support of this application was further restated in paragraphs 4(e) and (g) of the further and better affidavit in opposition to the 2nd Respondents counter affidavit herein reproduced verbatim:

Para 4(e):

***"That it now becomes very amusing, ridiculous and very suspicious how the Respondents mischievously interpreted a very clear, explicit and unambiguous monetary judgment award of ₦10,000,000.00 (Ten Million Naira) Judgment sum to now become an assumed and self - computed judgment sum of ₦60,000,000.00 (Sixty Million Naira) which the 2nd Respondent now seeks to enforce by way of Garnishee before the 1<sup>st</sup> Respondent".***

Para 4(g):

***"That the Applicants are aggrieved with the ruling of the 1st Respondent granting Garnishee order Nisi in excess of the actual judgment debt contained in the judgment sought to be enforced".***

The learned counsel for the Applicants formulated a lone issue for determination by this Honourable court to wit:

***"Whether this court has the vires to grant the within application?"***

In arguing the case for the Applicants, the learned counsel refer to section 6(a) of the 1999 Constitution of the Federal Republic of Nigeria

(as amended) which confers this Honourable court with the powers to exercise judicial discretion. He submitted that the present application is simply a request for this court to exercise the judicial discretion which it is empowered to exercise, albeit judicially and judiciously. He referred to order 43 Rule 3(1) & (2) of the Rules of this court relating to the application of this nature to wit:

***O. 43 R 3(1): "No application for judicial review shall be made unless the leave of this court has been obtained in accordance with this rule".***

***O. 43 R 3(2): "An application for leave shall be made ex - parte to the court and shall be supported by....."***

He equally referred to order 43 Rule 1(a) & (b) of the Rules of this court which provides that:

***"An application for;***

***(a) An order of mandamus, prohibition or Certiorari.***

***(b) An injunction restraining a person from acting in any office in which he is not entitled to act shall be made by way of application for judicial review in accordance with the provision of this order".***

The learned counsel referred this Honourable court to the case of **ONYEKWULUJE V. BENUE STATE GOVERNMENT (2015) 16 NWLR (Pt. 1484) pg 40 at pg 91 para H** where the Supreme Court Per KEKERE - EKUN JSC (as she then was) but now the Honourable Chief Justice of Nigeria held thus:

***"The writ of Certiorari is issued in order that the court may bring the proceedings of the inferior tribunal or court before it for inspection and if there is due cause disclosed, to quash them. It lies only against bodies exercising judicial or quasi-judicial***

*authority and in respect of acts performed by them in that capacity".*

*It is one of the prerogative writs whose main function is to ensure that inferior courts or anybody entrusted with performance of judicial or quasi - judicial functions keep within the limits of the jurisdiction conferred upon them by statutes which create them. Therefore, an order of Certiorari will lie to remove into the High Court for purpose of being quashed any judgments, orders, convictions, or other proceedings of such inferior Courts or body, civil or criminal made without or in excess of jurisdiction".*

The learned counsel finally submitted that in view of the facts and circumstances of this application as well as the Exhibits herein attached, this Honourable court should hold that it has the necessary vires to grant the application of the Applicants.

On the other hand, the Respondents filed a counter affidavit of 4 paragraphs titled 'Judgment Creditor/Respondents counter affidavit to Tue Applicant's originating motion, **CV/5377/2024** deposed to by one YAKUBU UGEFU, the secretary in the Law Firm of D. A. Momoh & Co, solicitors to the Applicant/Respondent. The said counter affidavit is accompanied with **Exhibits A, B, C and D** respectively as well as a written address adopted by the learned counsel for the Respondent, D. A. Momoh Esq. The aforementioned Exhibits are described in the counter affidavit as **Exhibit A**, the copy of the Originating Motion, **Exhibit B**, a Certified True Copy of the Judgment of the FCT, High Court, **Exhibit C** is the copy of the Garnishee Order Nisi and **Exhibit D**, a copy of the Ruling of the court of the said application by the 1st Respondent respectively.

The main grievances expressed in the counter affidavit of the Respondent can be seen from the content of paragraphs 3(e)(j)(k) and L of the counter affidavit which are herein reproduced verbatim:

Para 3(e):

***"That in the judgment which is Exhibit B above, the court granted the sum of ₦10,000,000.00 (Ten million naira) only as damages and also the prayers No. A, B, D, E and F in the originating motion.***

Para 3(j):

***" That prayer in No. F is the sum of fifty million naira (₦50,000,000.00) only as general damages and compensation to the applicant for arresting, intimidating, harassment and threats to arrest and detain the applicant by the Respondents".***

Paragraph 3(k):

***"That the total money granted by the court from the above which is also the judgement of the court is ₦60,000,000.00 (sixty million naira) only.***

Para 3(L):

***"That the order Nisi made in the sum of ₦60,000,000.00 (sixty million naira) only by the 1<sup>st</sup> Respondents is correct the said order is hereby attached and marked as exhibit C".***

In arguing the position of the Respondents, the learned counsel formulated a lone issue for determination by this Honourable court, to wit:

***"Whether the orders made by the 1st Respondent in suit No. MT/DUT/48/2024, AMANGE SAMUEL TERSUE V.***

***INSPECTOR GENERAL OF POLICE & 4 ORS are valid and subsisting".***

The learned counsel referred this Honourable court to section 294(1) and (5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) which is to the effect that every decision of the court is essential and binding on all parties. He submitted that by the provisions of section 294(1) & (5) of the Constitution referred above, courts also derive their powers to enforce and give effect to their judgments/orders. He referred to the case of OKOYA V. SANTILI (1990) 2 NWLR (Pt. 131) pg 172.

According to the learned counsel, the only option left for a party who is not satisfied with the decision of a court is to appeal against that Judgment or Ruling. He therefore submitted that the orders made in suit No. **MT/DUT/48/2024**, Amange Samuel Tersue V. Inspector General of Police and 4 ors are valid and subsisting and the only option for the Applicant is to appeal against it. He further submitted that the 1<sup>st</sup> Respondent has jurisdiction to hear and determine this suit and the orders made by him are valid.

The learned counsel equally submitted that this Honourable court cannot alter her judgment as contained in **Exhibit B** because this Honourable court has become functus officio and as such lacks jurisdiction to review its Order. He referred to the case of N.I.C.O.N V. P.I.C CO. LTD (1990) 1 NWLR (pt. 129) pg 701. He therefore urged this Honourable court to refuse the Originating Motion on notice of the Applicant and hold that the orders made by the 1<sup>st</sup> Respondent are valid.

In view of this therefore this Honourable court elect to adopt the sole issue distilled by the Applicant's to wit:

***"Whether this application has merits and should accordingly be granted".***

Having thus summarised the basic issues before this Honourable court, it will be in the interest of justice to restate the essence of an application for Judicial Review as provided in Order 43 R 3(1) & (2) of the Rules of this Honourable court, 2025. The question at this stage is where does this Honourable court derive the jurisdiction to entertain an application to review the decision of the 1st Respondent. The Supreme court in the case of **HON. EHIOZE EGHAREVBA V. HON. CROSSBY OSADOLAR ERIBO & 11 ORS (2010) 9 NWLR (PT. 1199) PG 411 AT PG 421 RATIO 8** held that:

***"By virtue of section 272(2) of the 1999 Constitution, High Courts have the power to review administrative determination of inferior tribunals, in that the High Court has an inherent jurisdiction to control all inferior tribunals not in an appellate capacity but in a supervisory capacity. The control extends not only to seeing that inferior tribunals observe the law but also that they keep within their jurisdiction. The control is exercised by means of a power to quash any determination by the tribunal which, on the face of it, offends against the law. This power is exercised in respect of administrative decision of any inferior tribunals, on the ground of illegality or Procedural impropriety or irrationality".***

It is therefore clear from the foregoing Judicial authority from the Apex court that contrary to the submission of the learned counsel for the Respondents, this Honourable court is not sitting over its own decision but on a supervisory capacity to review the decision of the 1<sup>st</sup> Respondent in his bid to enforce the Judgment of the High Court. Similarly, the task before this Honourable Court is to review the

decision of the 1st Respondent as it relates to the actual interpretation and understanding of the content of the judgment of Hon. Justice E. Okpe delivered on the 8<sup>th</sup> August, 2023.

It is on record that by a motion ex-parte, filed by the 2<sup>nd</sup> Respondent, via **MT/DUT/48/2024** dated the 2<sup>nd</sup> of May, 2024 supported by a four (4) paragraph affidavit with **Exhibits A** and **B** attached thereto, the 1<sup>st</sup> Respondent granted a Garnishee order Nisi against the Applicants in a bid to enforce the judgment of **Hon. Justice E. Okpe** delivered on the 8<sup>th</sup> August, 2024. It is the said Ruling of the 1st Respondent delivered on the 10<sup>th</sup> day of May 2024 granting a Garnishee order Nisi that is being urged or invited to be reviewed. It is not the content of the judgment of **Hon. Justice E. Okpe** that is asked to be reviewed as is being erroneously canvassed by the learned counsel for the Respondents. This being the case, it could rightly be said that it falls within the jurisdiction of this Honourable court to do so. The fact that this Honourable court is being invited to review the Ruling of the 1<sup>st</sup> Respondent in its supervisory capacity was equally reiterated in the case of **NWAOBOSHI V. MILAD DELTA STATE (2003) 11 NWLR (Pt. 831) pg 305 Ratio 3** where it was held that:

*"A writ of Certiorari is used in order that the issuing court may bring the proceedings of the inferior tribunal or court before it for inspection and if there is due cause disclosed to quash them".*

It will now be necessary to consider the content of the judgment of Hon. Justice E. Okpe which was purportedly enforced by virtue of the Ruling of the 1st Respondent delivered on the 10th day of May, 2024. The record of this Honourable court shows that Exhibit A is referred to by paragraph 3(a) of the affidavit in support of this application as a copy of the judgment of Hon. Justice E. Okpe delivered on the 8th August, 2024. However, by paragraph 3(c) of the counter affidavit of the Respondents

the said judgment of Hon. Justice E. Okpe is referred to as Exhibit B. By the said judgment it states that:

*"I award the sum of N10,000,000.00 (Ten million naira) only against the Respondents as damages in favour of the applicant for the violation of his fundamental Rights. In making this award I am guided by consideration of the fact that uptill date the applicant has not been charged to court and or informed of the offence he had committed. I refused the relief for special damages as same was not proved".*

*"Consequently prayers (a) (b) (c) (d) (e) and (f) as herein after reproduced on the terms earlier stated are hereby granted. It is so ordered".*

The humble interpretation and understanding of the above judgment is that an order for the enforcement of his fundamental Rights to personal Liberty, an order of perpetual injunction, an order restraining the Respondents from taking further steps, an order directing the Respondents to return a Nokia phone 6 with two sims and an order directing the Respondents to return JBL EXTREME 3 (BLUETOOTH) to the applicant were all granted. In the same vein, the Applicant's request for the sum of fifty million naira (~~N~~**50,000,000.00**) only as general damages and or compensation to the Applicants for arresting, intimidation, harassment, threat to arrest and detain the Applicant by the Respondents was not wholly granted. The Hon. Court granted the sum of **N10,000,000.00** (Ten million naira) only against the Respondents as damages in favour of the Applicants for the violation of his fundamental Rights. This particular relief falls under Relief (f) which deals with the fundamental Rights of the Respondent.

Similarly, the Hon. Justice E. Okpe's judgment also states clearly that the relief for the sum of **N5,750,000.00** for special damages was refused

as it was not proved. This particular order relates to relief (g) which was explained in detail in paragraph 14 thereof.

Assuming this Honourable court want to go extra mile to further explain the content of the judgment of Hon. Justice E. Okpe of 8th August, 2024, it could still be explained in the following simple manner wherein the judgment reads:

*"Consequently, prayers (a)(b)(d)(e) and (f) as herein before reproduced on terms earlier stated are hereby granted".*

By the interpretation offered by the Respondent in their counter affidavit they are in agreement with prayers A,B,D,E respectively but not in agreement with No. F.

Unfortunately, this is the same Relief (f) that seeks for **₦50,000,000.00** as general damages for interfering with his fundamental Rights out of which Hon. Justice E. Okpe granted them the sum of **₦10,000,000.00** (Ten Million Naira) only.

As for relief G, which applies for specific damages of the sum of **₦5,750,000.00**, it was not granted as it was held not to have been proved.

It is therefore clear from the available evidence before this Honourable court that the content of **Exhibit A**, a copy of the judgment of **Hon. Justice E. Okpe** delivered on the 8th August, 2024 shows that the Applicants were ordered to pay the sum of Ten million naira (**₦10,000,000.00**) only as damages for the violation of his fundamental Rights. It was not the sum of **₦60,000,000.00** (Sixty Million Naira) only as is being erroneously canvassed by the Respondents.

Thus, what the learned Chief District judge was invited to enforce by virtue of **Exhibit A** is in respect of the sum of **₦10,000,000.00** (Ten Million Naira) only and not **₦60,000,000.00** (Sixty Million Naira) only.

The question at this stage is whether or not this decision of the 1st Respondent is capable of being brought to this Honourable court for the purpose of being scrutinised and where possible quashed. In order to respond to the above issue raised, we refer to the case of ST. MICHAEL PHARMACEUTICALS LTD V. MOORE ASSOCIATES LIMITED & 1 OR (2015) 33 W.R.N pg 101 at pg 112 Ratio 21 where it was held that:

***"Generally, the grounds for making an order of Certiorari include: Lack of jurisdiction, breach of the rules of natural justice or the duty to act fairly, error of law on the face of the records and fraud or collusion".***

Similarly, in the above cited case at page 112 Ratio 20, it was equally held that:

***"An order of Certiorari or prohibition will therefore lie against anybody or person having a legal right or duty to determine question affecting the rights of subject whenever the duty implies at least that body or person should act fairly or in accordance with a statutory provision".***

This equally requires a further perusal of the reliefs sought by the applicant which include:

***"An order of Certiorari to remove into this court for the purposes of quashing the proceedings before His Worship, Honourable Ahmed Yusuf, Ubangari, the Chief District Judge Grade II, sitting at Magistrate court No. 2 Dutse - Alhaji Abuja in suit No. MT/DUT/48/2024 - AMANGE SAMUEL TERSUE V. INSPECTOR GENERAL OF POLICE & 4 ORS".***

In the same vein, a quick perusal of the said Ruling sought to be brought to this Honourable court for the purpose of being quashed is also

necessary. The Ruling of the 1<sup>st</sup> Respondent delivered on the 10<sup>th</sup> day of May, 2024 partly reads:

***"AN ORDER OF GARNISHEE NISI attaching the sum of N60,000,000.00 (sixty million naira) only being the judgment sum, against the 4th and 5th judgment Debtor/Mutual Trust MF Bank Ltd and Joshua Oyebisi in favour of the judgment Creditor/Applicant in this suit No. CV/6953/2023 delivered on the 8<sup>th</sup> August, 2023.***

The Applicants are requesting/inviting this Honourable court to bring the above Ruling of the 1st Respondent to this Honourable court for the purpose of being quashed on the grounds that:

- 1. That the 1st Respondent erred and misdirected himself when on the 10th May, 2024, he granted a Garnishee Order Nisi ruling in suit No. MT/DUT/48/2024 - AMANGE SAMUEL TERSUE V. INSPECTOR GENERAL OF POLICE & 4 ORS for a judgment debt of ₦60,000,000.00 (Sixty Million Naira) only over and above the actual judgment debt of ₦10,000,000.00 (Ten million naira) only contained in the judgment sought to be enforced.**
- 8. That the 1st Respondent erred and misdirected himself in his Ruling delivered on 10<sup>th</sup> May when he interpreted the judgment debt arising from Exhibit 'A' above as being a total sum of ₦60,000,000.00 (Sixty million naira) based on his calculations, assumptions and conjectures.**
- 9. That the 1<sup>st</sup> Respondent further erred and misdirected himself when he overruled the applicant's preliminary objection on the 19th August, 2024 and insisted that the total judgment debt is the sum of ₦60,000,000.00 (Sixty Million Naira) only.**

**11. That the sum of ₦60,000,000.00 (Sixty Million Naira) only which is the judgment debt sought to be enforced in the 1<sup>st</sup> Respondents court is not specific and cannot be located in the substantive judgment and same is not agreed upon by the parties".**

In considering the above reliefs and the grounds upon which the reliefs are sought it is for this Honourable court to evaluate the available facts and circumstances placed before the court by the Applicants to know whether they are sufficient and cogent enough to warrant the grant of this application.

This Honourable court has earlier in this ruling construed the content of **Exhibit A**, that is the substantive judgment of the Hon. Justice E. Okpe delivered on the 8th August, 2024 as connoting that reliefs (a)(b)(d)(e) and (f) of the Applicants were granted in the sense that the sum of **₦10,000,000.00** (Ten Million Naira) only was awarded instead of the claim for the sum of **₦50,000,000.00** (Fifty Million Naira) as General damages and/or compensation contained in relief(f). However, the claim for specific or special damages contained in relief(g) for the sum of **₦5,750,000.00** (Five Million, Seven Hundred and Fifty Thousand Naira) was not granted "as same was not proved".

Unfortunately, the content of the judgment of the High Court, FCT Abuja Per **Hon. Justice E. Okpe** delivered on the 8<sup>th</sup> day of August, 2024 has been misconstrued and misinterpreted by the 1<sup>st</sup> Respondent in both his rulings of 10<sup>th</sup> May, 2024 granting Garnishee Order Nisi against the Applicants and his overruling of the Notice of Preliminary objection of 22<sup>nd</sup> October, 2024. The Respondent in both his Rulings misconstrued the said judgment of **Hon. Justice E. Okpe** to mean in his own words that:

*"From the reliefs of the said judgment paragraph (f) which was granted by the court is ₦50,000,000.00. All together is ₦60,000,000.00. That is how the sum came about by this Honourable court".*

It should be observed that the content of the judgment of **Hon. Justice E. Okpe** of 8<sup>th</sup> August, 2024 is not ambiguous but very clear and easily understood. However, the content of both Rulings delivered by the 1st Respondent in the interpretation of the judgment of **Hon. Justice E. Okpe** of 8<sup>th</sup> August, 2024 requires the production of those rulings for scrutiny by this Honourable court and where possible quash same. Thus, in the case of the STATE V. CHIEF MAGISTRATE AJAOKUTA (2007) 14 WRN pg 76 lines 10 - 20 the Court of Appeal held that:

*"Magistrate courts are statutory bodies because they are established by Magistrate courts laws of various states of the Federation Magistrate courts are of course inferior Courts of record and they have legal authority to determine question affecting the rights of individuals. Where a Magistrate court acts in excess of its jurisdiction, an aggrieved party can apply for an order of Certiorari to quash the decision".*

Similarly, in the case of THE STATE V. LAWAL (2013) NWLR (Pt. 1354) at pages 590 - 591 paras G - A it was held that:

*"Now, there are four grounds upon which an application for order of Certiorari may be made and upheld".*

- 1. For lack of jurisdiction by adjudicating body or**
- 2. For breach of the Rules of Natural Justice or**
- 3. For serious error of Law on the face of the record or**
- 4. That the decision has been obtained by fraud.**

In the instant case, the contention of the applicant is that the learned Chief District Judge, Dutse - Alhaji, Abuja erred in law and misdirected himself in his Ruling delivered on the 10<sup>th</sup> May, 2024 when he interpreted the judgment debt arising from **Exhibit A** above as being a total sum of **₦60,000,000.00** (Sixty Million Naira) based on his calculation, assumptions and conjectures.

This Honourable court is convinced that the 1st Respondent in his ruling referred to above clearly misdirected himself in the way and manner he understood and interpreted the content of the judgment of **Hon. Justice E. Okpe** delivered on the 8<sup>th</sup> August, 2024. The obvious question at this point is, how has the learned Chief District Judge misinterpreted the last paragraph of the said judgment, **Exhibit A** which is:

*"Consequently, prayers (a),(b),(d),(e) and (f) as herein before reproduced on the terms earlier stated are hereby granted. It is so ordered".*

The obvious and literal interpretation is that all the above prayers were earlier reproduced in the body of the judgment, **Exhibit A**. The said reliefs earlier reproduced were granted on the "Terms Stated", that is, as per the order or terms directed in the judgment. This simply implies that by para(f) wherein the sum of **₦50,000,000.00** (Fifty Million Naira) is being claimed, the Hon. Court granted the sum of **₦10,000,000.00** out of the **₦50,000,000.00** and this is the term earlier stated in the said judgment, **Exhibit A**. Similarly, relief (g) is a claim for the sum of **₦5,750,000.00** for special damages and by the terms earlier stated in the said judgment, the claim was refused as same was not proved.

It therefore implies that the reliefs granted on terms earlier stated in the said judgment is the sum of **₦10,000,000.00** (Ten Million Naira) only as general damages while the relief for specific damages was refused. Now, assuming without conceding that the entire relief (f) for the sum of

**₦50,000,000.00** was granted as general damages, then where was the sum of **₦10,000,000.00** derived from when in the first place there was nowhere in any of the reliefs that the said amount was ever claimed. The only monetary claim among the reliefs are contained in reliefs (f) and (g) which deals with the sum of **₦50,000,000.00** and **₦5,750,000.00** respectively. How then, was the other sum of **₦10,000,000.00** smuggled into the judgment if not for an award of **₦10,000,000.00** as general damages out of the total sum of **₦50,000,000.00** claimed by the Respondents. After all, it is trite law that a court of law does not award what was never asked for by the party. This implies that it cannot be erroneously interpreted that even though the Respondents claim in relief (g) for the sum of **₦5,750,000.00** was refused because it was not proved, then Hon. Judge generously decided to donate the sum of **₦10,000,000.00** from nowhere? This ofcourse will be a travesty of justice to award what was never applied for by a party. This is moreso that even a claim for special damages must be proved by the claimant before it can be granted. Thus, in the case of **SALAKO V. WILLIAMS (1998) 11 NWLR (Pt. 574) pg 505 at pg 522 paras G - H**. It was held that:

*"A claim for special damages must be proved with credible and uncontradicted evidence. In the instant case, the evidence in support of the special damages claimed having been discredited in the course of cross examination it should not have been accepted and relied upon".*

It is therefore the humble view of this Honourable court that the learned Chief District Judge, Magistrate court No. 2 Dutse Alhaji, Abuja by his Rulings of 10<sup>th</sup> day of May, 2024 and 19<sup>th</sup> day of August, 2024 has not only erred in law and misdirected himself but acted in excess of his Jurisdiction by trying to misinterpret the judgment of Hon. Justice E. Okpe which is out of his jurisdiction. The learned Chief District Judge

lack the requisite jurisdiction to sit on appeal over the judgment of a High Court by trying hard to enforce wrongly the judgment of **Hon. Justice E. Okpe** of the FCT High Court .

It is obvious that the judgment contained in **Exhibit A** is for the sum of **₦10,000,000.00** which ordinarily should have been given its literal interpretation. However, the learned Chief District Judge decided to increase the monetary amount granted in the said judgment from **₦10,000,000.00** to **₦60,000,000.00** which is not within his jurisdiction. It is further held that the learned Chief District Judge also acted in breach of the Rules of natural Justice thereby falling into serious error of law on the face of the records particularly the content of Exhibit A that was seriously misinterpreted in the two Rulings delivered by the learned Chief District Judge. In the light of the above analysis therefore, what then is expected of this Honourable court. The position of the law has been restated in the case of **OKWUSIDI V. LADAKE AKINTOLA UNIVERSITY (2011) 48 WRN pg 159 at pg 165** where it was held that:

*"It is trite law that in Certiorari proceedings the court is mainly concerned with whether the record on the facts showed error of jurisdictional irregularities put in another way, a writ of Certiorari lies at common law to remove the proceedings of inferior court of record or other persons or bodies exercising judicial or quasi-judicial functions for the purpose of being quashed. It may be an alternative to an appeal and serves as a means of controlling inferior Courts or tribunals. It may be employed to quash proceedings conducted without jurisdiction or in excess of it. It is true that Certiorari lies where it appears on the face of the record that the decision was erroneous point of law, virtually every decision of an inferior court or tribunal will be questioned by Certiorari proceedings".*

This sums it all the court acted in excess in its Rulings in this matter and there was no fair hearing here. The judgment of **Hon. Justice E. Okpe** delivered on the August, 2024 was erroneously interpreted by the 1<sup>st</sup> Respondent in excess of his jurisdiction. It was equally a misdirection of the law, that is, an error of law. It was equally a breach of Natural Justice. In addition, the ruling of the learned Chief District Judge sitting at Magistrate court No. 2 Dutse Alhaji, Abuja in overruling the preliminary objection in suit No. **MT/DUT/48/2024** delivered on the 19<sup>th</sup> day of August. 2024 did not help matters. It was equally an error of law on the face of the record and a breach of natural Justice. It is therefore, proper to remove the entire records of proceedings of the 1st Respondent in the case of **AMANGE SAMUEL TERSUE V. INSPECTOR GENERAL OF POLICE & 4 ORS** for the purpose of quashing the ruling of that court delivered on the 10<sup>th</sup> day of May, 2024 in case No. **MT/DUT/48/2024**.

The application is consequently granted in favour of the Applicants here as prayed for by them.

**SIGNED:**  
**HON.JUDGE**  
**05/11/2025**

**APPEARANCE:**

*U. Samuel, Esq, holding the brief of D. A. Momoh, Esq, for the Judgment Creditor/Respondent*

*G. C. Sule, Esq, for the Judgment Debtors/Applicants*